

Changes to responsible lending laws introduced after GFC to endanger borrowers

On Friday 25 September 2020, the Australian Government announced that it intends to axe the responsible lending standards in Australia introduced following the Global Financial Crisis in 2008. The change is intended to come into force in March 2021.

The removal of the responsible lending standards will allow lenders to rely solely on information provided by borrowers unless there are reasonable grounds to suspect that such information is unreliable. Lenders will no longer be obliged to make further inquiries into the specific needs of the borrower and will not be appropriately reprimanded in the event borrowers provide misleading information on their loan applications.

Treasurer Josh Frydenberg indicated on Friday that the changes are designed to "*increase the flow of credit to households and businesses*". Mr Frydenberg further indicated that "*as Australia continues to recover from the COVID-19 pandemic, it is important that there are no unnecessary barriers to the flow of credit to households and small businesses*".

The Federal Government's changes to responsible lending laws are in marked difference to lending obligations specified in the *National Consumer Credit Protection Act 2009* ('National Credit Act'), which lenders are currently obliged to follow. The regulation was passed shortly after the Global Financial Crisis, with the purpose of curtailing immoral lending practices that left borrowers worldwide in insurmountable debt.

Financial Counselling Australia has stated, "*As Australia seeks a way out of the current economic crisis, now is when we should be doubling down on the lessons learned in the GFC and lend responsibly.*"

Whereas the National Credit Act requires lenders to assess each consumer's specific circumstances and tailor credit arrangements accordingly, the March 2021 changes remove this safeguard for consumers. This will mean that individuals and small businesses may be granted loans that are unsuitable for them and acquire debt they may not be able to repay.

Financial Counselling Australia stated that "*providing people with unaffordable credit will do nothing to hasten the economic recovery from Covid-19. It will only lead to vulnerable people suffering greater harm and distress in the long run.*"

In contrast to Treasurer Frydenberg, The Commonwealth Bank of Australia recently indicated that the flow of credit is above pre-COVID levels and that lending is growing at a strong pace (as noted by the Consumer Action Law Centre's CEO, Gerard Brody).

At recent House of Representatives Economics Committee hearings the big banks did not raise an issue with the current responsible lending laws. This is another indication that the presence of a so-called issue with the 'flow of credit' is unsupported by those working in the credit industry.

Removing responsible lending obligations will allow banks to aggressively push credit onto their customers. This is a freedom that financial institutions have not enjoyed since 2008 and could lead consumers to acquire loans which they ultimately cannot afford, and which responsible lenders should decline.

"*The winding back of current credit regulations will place vulnerable consumers in a precarious position*", says Assistant Principal Solicitor Justin Abi-Daher, "*The new proposals remove the safeguards for vulnerable clients and do not adequately consider the vulnerabilities of consumers who are often seeking credit in times of hardship*".

Read Marrickville Legal Centre's factsheet on changes to Responsible Lending Laws [here](#).

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